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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,092	04/13/2004	Harper M. Bruce	291A	3153

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Law Offices of Charles A. Wilkinson
68 East Broad Street
P.O. Box 1426
Bethlehem, PA 18016-1426

EXAMINER

RAMIREZ, RAMON O

ART UNIT PAPER NUMBER

3632

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,092

Applicant(s)

BRUCE, HARPER M.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1, 5-10 and 16-18 is/are rejected.
- 7) ☒ Claim(s) 2-4 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

This is the second Office Action corresponding to amendment filed Jan 12, 2006.

The application contains 17 claims.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 17 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 is indefinite since it recites “each of said vertically extending support members”; there is no proper antecedent for that clause. The claim provides an antecedent for “at least one vertically extending support member”. This rejection can be overcome by amendment the clause to read - - each of said at least vertically extending support member - -.

Claim Rejections - 35 USC § 103

Claims 1, 5, 6, 7, 8, 9, 10, 11, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Streit (Pat No 4,067,527) in view of Biasini (Pat No 4,407,182). The patent to Streit discloses a stand comprising a U-shaped base (2) having a central portion (6) supporting a vertical extending support member having bracket means (like

67); the U-shaped base capable of supporting an apparatus resting on a the floor. Fig 2 of Streit illustrates the legs defining the base being pivotally attached. Streit also discloses means (42, 44) for supporting an accessory (the tuba).

The patent to Biasini discloses a stand having telescopic legs (66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the stand shown by Streit with telescopic sections as shown by Biasini to be obvious to reduce the size of the stand for storage or transportation.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Streit in view of Basini and Woodhouse et al. (Pat No 6,215,054).

The patent to Woodhouse et al. discloses means (26) for locking the length of telescopic legs. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the stand shown by the combination set forth above with locking means as shown by Woodhouse et al. for locking the telescopic legs at a desired length.

Allowable Subject Matter

Claims 2, 3, 4 and 11 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 12, 14 and 15 are allowed.

Response to Arguments

Terminal Disclaimer filed Jan 12, 2006 has not been processed by the Office yet. The double patenting rejection is put on hold until the Terminal Disclaimer is processed.

Applicant's arguments regarding the rejected claims have been fully considered but they are not persuasive.

Applicant argues that Biasini does not shows telescopic legs with only two adjustable positions, while the instant case shows a plurality of discrete positions. Please note that the claims only recite telescopic legs adapted to encompass a floor supported apparatus. This limitation is met by the combination of the references presented by the examiner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is

(571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST
FRIDAY OFF.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor ROBERT OLSZEWSKI can be reached on (571) 272-6788.

The fax phone number for the organization where this application or proceeding
is assigned is 571 273-8300.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published
applications may be obtained from either Private PAIR or Public PAIR. Status
information for unpublished applications is available through Private PAIR only. For
more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you
have questions on access to the Private PAIR system, contact the Electronic Business
Center (EBC) at 866-217-9197 (toll-free).

A shortened period for response to this Office Action expires THREE MONTHS
from the mailing date of this action.

ROR
February 6, 2006


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632